

CERTIFICATION OF ENROLLMENT

ENGROSSED THIRD SUBSTITUTE HOUSE BILL 1713

64th Legislature
2016 1st Special Session

Passed by the House March 29, 2016
Yeas 89 Nays 5

Speaker of the House of Representatives

Passed by the Senate March 29, 2016
Yeas 40 Nays 2

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED THIRD SUBSTITUTE HOUSE BILL 1713** as passed by House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED THIRD SUBSTITUTE HOUSE BILL 1713

AS AMENDED BY THE SENATE

Passed Legislature - 2016 1st Special Session

State of Washington

64th Legislature

2016 Regular Session

By House Appropriations (originally sponsored by Representatives Cody, Harris, Jinkins, Moeller, Tharinger, Appleton, Ortiz-Self, and Pollet)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to integrating the treatment systems for mental
2 health and chemical dependency; amending RCW 70.96A.140, 70.96A.145,
3 70.96A.230, 71.05.010, 71.05.025, 71.05.026, 71.05.050, 71.05.120,
4 71.05.132, 71.05.150, 71.05.150, 71.05.153, 71.05.153, 71.05.154,
5 71.05.156, 71.05.157, 71.05.160, 71.05.170, 71.05.180, 71.05.190,
6 71.05.195, 71.05.201, 71.05.203, 71.05.210, 71.05.212, 71.05.214,
7 71.05.215, 71.05.220, 71.05.230, 71.05.235, 71.05.240, 71.05.240,
8 71.05.280, 71.05.290, 71.05.300, 71.05.320, 71.05.320, 71.05.325,
9 71.05.340, 71.05.585, 71.05.590, 71.05.590, 71.05.360, 71.05.380,
10 71.05.435, 71.05.530, 71.05.560, 71.05.620, 71.05.700, 71.05.705,
11 71.05.745, 71.05.750, 71.34.020, 71.34.305, 71.34.375, 71.34.385,
12 71.34.400, 71.34.410, 71.34.420, 71.34.500, 71.34.520, 71.34.600,
13 71.34.630, 71.34.650, 71.34.660, 71.34.700, 71.34.700, 71.34.710,
14 71.34.710, 71.34.720, 71.34.720, 71.34.740, 71.34.740, 71.34.750,
15 71.34.750, 71.34.760, 71.34.780, 71.34.780, 9.41.098, 4.24.558,
16 5.60.060, 9.41.280, 9.95.143, 10.77.010, 10.77.025, 10.77.027,
17 10.77.060, 10.77.065, 10.77.084, 10.77.088, 11.92.190, 43.185C.255,
18 18.83.110, 43.20A.025, 70.48.475, 70.97.010, 71.05.660, 71.24.045,
19 71.24.330, 71.32.080, 71.32.140, 71.32.150, 72.09.315, 72.09.370,
20 43.185C.305, 74.50.070, 71.24.025, 71.24.035, 70.96A.050, 71.24.037,
21 70.96A.090, 71.24.385, 70.96A.035, 70.96C.010, 70.96A.037,
22 70.96A.047, 70.96A.055, 70.96A.087, 70.96A.170, 70.96A.400,
23 70.96A.800, 70.96A.905, 71.24.300, 71.24.350, 9.94A.660, 10.05.020,

1 10.05.030, 10.05.150, 70.96C.020, 46.61.5055, 46.61.5056, and
2 82.04.4277; reenacting and amending RCW 70.96A.020, 71.05.020,
3 71.05.210, 71.34.730, 70.02.010, 70.02.230, 71.24.025, and
4 70.96A.350; adding new sections to chapter 71.05 RCW; adding new
5 sections to chapter 71.24 RCW; adding a new section to chapter 72.09
6 RCW; creating new sections; recodifying RCW 70.96A.035, 70.96A.037,
7 70.96A.040, 70.96A.043, 70.96A.047, 70.96A.050, 70.96A.055,
8 70.96A.080, 70.96A.085, 70.96A.087, 70.96A.090, 70.96A.100,
9 70.96A.170, 70.96A.190, 70.96A.350, 70.96A.400, 70.96A.410,
10 70.96A.420, 70.96A.430, 70.96A.500, 70.96A.510, 70.96A.520,
11 70.96A.800, 70.96A.905, 70.96C.010, and 70.96C.020; decodifying RCW
12 43.135.03901; repealing RCW 70.96A.011, 70.96A.020, 70.96A.095,
13 70.96A.096, 70.96A.097, 70.96A.110, 70.96A.120, 70.96A.140,
14 70.96A.141, 70.96A.142, 70.96A.145, 70.96A.148, 70.96A.155,
15 70.96A.157, 70.96A.160, 70.96A.180, 70.96A.230, 70.96A.235,
16 70.96A.240, 70.96A.245, 70.96A.250, 70.96A.255, 70.96A.260,
17 70.96A.265, 70.96A.910, 70.96A.915, 70.96A.920, 70.96A.930,
18 70.96B.010, 70.96B.020, 70.96B.030, 70.96B.040, 70.96B.045,
19 70.96B.050, 70.96B.060, 70.96B.070, 70.96B.080, 70.96B.090,
20 70.96B.100, 70.96B.110, 70.96B.120, 70.96B.130, 70.96B.140,
21 70.96B.150, 70.96B.800, 71.05.032, 70.96A.010, 70.96A.030,
22 70.96A.045, 70.96A.060, 70.96A.150, 70.96A.300, 70.96A.310,
23 70.96A.320, and 70.96A.325; providing effective dates; providing
24 expiration dates; and declaring an emergency.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

26 **PART I**

27 **CHEMICAL DEPENDENCY INVOLUNTARY TREATMENT PROVISIONS**

28 **Sec. 101.** RCW 70.96A.020 and 2014 c 225 s 20 are each reenacted
29 and amended to read as follows:

30 For the purposes of this chapter the following words and phrases
31 shall have the following meanings unless the context clearly requires
32 otherwise:

33 (1) "Alcoholism" means a disease, characterized by a dependency
34 on alcoholic beverages, loss of control over the amount and
35 circumstances of use, symptoms of tolerance, physiological or
36 psychological withdrawal, or both, if use is reduced or discontinued,

1 and impairment of health or disruption of social or economic
2 functioning.

3 (2) "Approved substance use disorder treatment program" means a
4 program for persons with a substance use disorder provided by a
5 treatment program certified by the department of social and health
6 services as meeting standards adopted under this chapter.

7 (3) "Behavioral health organization" means a county authority or
8 group of county authorities or other entity recognized by the
9 secretary in contract in a defined regional service area.

10 (4) "Behavioral health program" has the same meaning as in RCW
11 71.24.025.

12 (5) "Behavioral health services" means mental health services as
13 described in chapters 71.24 and 71.36 RCW and chemical dependency
14 treatment services as described in this chapter.

15 ~~((+5+))~~ (6) "Chemical dependency" means: (a) Alcoholism; (b) drug
16 addiction; or (c) dependence on alcohol and one or more other
17 psychoactive chemicals, as the context requires.

18 ~~((+6) "Chemical dependency program" means expenditures and
19 activities of the department designed and conducted to prevent or
20 treat alcoholism and other drug addiction, including reasonable
21 administration and overhead.))~~

22 (7) "Department" means the department of social and health
23 services.

24 (8) "Designated chemical dependency specialist" or "specialist"
25 means a person designated by the behavioral health organization or by
26 the county ~~((alcoholism and other drug addiction))~~ substance use
27 disorder treatment program coordinator designated ~~((under RCW~~
28 70.96A.310)) by the behavioral health organization to perform the
29 commitment duties described in RCW 70.96A.140 and qualified to do so
30 by meeting standards adopted by the department.

31 (9) ~~((("Director" means the person administering the substance use
32 disorder program within the department.~~

33 ~~(+10+))~~ "Drug addiction" means a disease characterized by a
34 dependency on psychoactive chemicals, loss of control over the amount
35 and circumstances of use, symptoms of tolerance, physiological or
36 psychological withdrawal, or both, if use is reduced or discontinued,
37 and impairment of health or disruption of social or economic
38 functioning.

39 ~~((+11) "Emergency service patrol" means a patrol established
40 under RCW 70.96A.170.~~

1 ~~((12))~~ (10) "Gravely disabled by alcohol or other psychoactive
2 chemicals" or "gravely disabled" means that a person, as a result of
3 the use of alcohol or other psychoactive chemicals: (a) Is in danger
4 of serious physical harm resulting from a failure to provide for his
5 or her essential human needs of health or safety; or (b) manifests
6 severe deterioration in routine functioning evidenced by a repeated
7 and escalating loss of cognition or volitional control over his or
8 her actions and is not receiving care as essential for his or her
9 health or safety.

10 ~~((13))~~ (11) "History of one or more violent acts" refers to the
11 period of time ten years prior to the filing of a petition under this
12 chapter, excluding any time spent, but not any violent acts
13 committed, in a mental health facility, or a long-term alcoholism or
14 drug treatment facility, or in confinement.

15 ~~((14))~~ (12) "Incapacitated by alcohol or other psychoactive
16 chemicals" means that a person, as a result of the use of alcohol or
17 other psychoactive chemicals, is gravely disabled or presents a
18 likelihood of serious harm to himself or herself, to any other
19 person, or to property.

20 ~~((15))~~ (13) "Incompetent person" means a person who has been
21 adjudged incompetent by the superior court.

22 ~~((16))~~ (14) "Intoxicated person" means a person whose mental or
23 physical functioning is substantially impaired as a result of the use
24 of alcohol or other psychoactive chemicals.

25 ~~((17))~~ (15) "Licensed physician" means a person licensed to
26 practice medicine or osteopathic medicine and surgery in the state of
27 Washington.

28 ~~((18))~~ (16) "Likelihood of serious harm" means:

29 (a) A substantial risk that: (i) Physical harm will be inflicted
30 by an individual upon his or her own person, as evidenced by threats
31 or attempts to commit suicide or inflict physical harm on one's self;
32 (ii) physical harm will be inflicted by an individual upon another,
33 as evidenced by behavior that has caused the harm or that places
34 another person or persons in reasonable fear of sustaining the harm;
35 or (iii) physical harm will be inflicted by an individual upon the
36 property of others, as evidenced by behavior that has caused
37 substantial loss or damage to the property of others; or

38 (b) The individual has threatened the physical safety of another
39 and has a history of one or more violent acts.

1 ((+19+)) (17) "Medical necessity" for inpatient care of a minor
2 means a requested certified inpatient service that is reasonably
3 calculated to: (a) Diagnose, arrest, or alleviate a chemical
4 dependency; or (b) prevent the progression of substance use disorders
5 that endanger life or cause suffering and pain, or result in illness
6 or infirmity or threaten to cause or aggravate a handicap, or cause
7 physical deformity or malfunction, and there is no adequate less
8 restrictive alternative available.

9 ((+20+)) (18) "Minor" means a person less than eighteen years of
10 age.

11 ((+21+)) (19) "Parent" means the parent or parents who have the
12 legal right to custody of the child. Parent includes custodian or
13 guardian.

14 ((+22+)) (20) "Peace officer" means a law enforcement official of
15 a public agency or governmental unit, and includes persons
16 specifically given peace officer powers by any state law, local
17 ordinance, or judicial order of appointment.

18 ((+23+)) (21) "Person" means an individual, including a minor.

19 ((+24+)) (22) "Professional person in charge" or "professional
20 person" means a physician or chemical dependency counselor as defined
21 in rule by the department, who is empowered by a certified treatment
22 program with authority to make assessment, admission, continuing
23 care, and discharge decisions on behalf of the certified program.

24 ((+25+)) (23) "Secretary" means the secretary of the department
25 of social and health services.

26 ((+26+)) (24) "Substance use disorder" means a cluster of
27 cognitive, behavioral, and physiological symptoms indicating that an
28 individual continues using the substance despite significant
29 substance-related problems. The diagnosis of a substance use disorder
30 is based on a pathological pattern of behaviors related to the use of
31 the substances.

32 ((+27+)) (25) "Treatment" means the broad range of emergency,
33 withdrawal management, residential, and outpatient services and care,
34 including diagnostic evaluation, ~~((chemical dependency))~~ substance
35 use disorder education and counseling, medical, psychiatric,
36 psychological, and social service care, vocational rehabilitation and
37 career counseling, which may be extended to persons with substance
38 use disorders and their families, persons incapacitated by alcohol or
39 other psychoactive chemicals, and intoxicated persons.

1 (~~((28+))~~) (26) "Substance use disorder treatment program" means an
2 organization, institution, or corporation, public or private, engaged
3 in the care, treatment, or rehabilitation of persons with substance
4 use (~~((disorder[s]))~~) disorders.

5 (~~((29+))~~) (27) "Violent act" means behavior that resulted in
6 homicide, attempted suicide, nonfatal injuries, or substantial damage
7 to property.

8 (28) "Commitment" means the determination by a court that a
9 person should be detained for a period of either evaluation or
10 treatment, or both, in an inpatient or a less restrictive setting.

11 (29) "Mental health professional" means a psychiatrist,
12 psychologist, physician assistant working with a supervising
13 psychiatrist, psychiatric advanced registered nurse practitioner,
14 psychiatric nurse, or social worker, and such other mental health
15 professionals as may be defined by rules adopted by the secretary
16 pursuant to the provisions of chapter 71.05 RCW.

17 (30) "Physician assistant" means a person licensed as a physician
18 assistant under chapter 18.57A or 18.71A RCW.

19 (31) "Psychiatric advanced registered nurse practitioner" means a
20 person who is licensed as an advanced registered nurse practitioner
21 pursuant to chapter 18.79 RCW; and who is board certified in advanced
22 practice psychiatric and mental health nursing.

23 **Sec. 102.** RCW 70.96A.140 and 2014 c 225 s 29 are each amended to
24 read as follows:

25 (1) (a) When a designated chemical dependency specialist receives
26 information alleging that a person presents a likelihood of serious
27 harm or is gravely disabled as a result of chemical dependency, the
28 designated chemical dependency specialist, after investigation and
29 evaluation of the specific facts alleged and of the reliability and
30 credibility of the information, may file a petition for commitment of
31 such person with the superior court, district court, or in another
32 court permitted by court rule.

33 If a petition for commitment is not filed in the case of a minor,
34 the parent, guardian, or custodian who has custody of the minor may
35 seek review of that decision made by the designated chemical
36 dependency specialist in superior or district court. The parent,
37 guardian, or custodian shall file notice with the court and provide a
38 copy of the designated chemical dependency specialist's report.

1 **Sec. 524.** RCW 9.94A.660 and 2009 c 389 s 3 are each amended to
2 read as follows:

3 (1) An offender is eligible for the special drug offender
4 sentencing alternative if:

5 (a) The offender is convicted of a felony that is not a violent
6 offense or sex offense and the violation does not involve a sentence
7 enhancement under RCW 9.94A.533 (3) or (4);

8 (b) The offender is convicted of a felony that is not a felony
9 driving while under the influence of intoxicating liquor or any drug
10 under RCW 46.61.502(6) or felony physical control of a vehicle while
11 under the influence of intoxicating liquor or any drug under RCW
12 46.61.504(6);

13 (c) The offender has no current or prior convictions for a sex
14 offense at any time or violent offense within ten years before
15 conviction of the current offense, in this state, another state, or
16 the United States;

17 (d) For a violation of the Uniform Controlled Substances Act
18 under chapter 69.50 RCW or a criminal solicitation to commit such a
19 violation under chapter 9A.28 RCW, the offense involved only a small
20 quantity of the particular controlled substance as determined by the
21 judge upon consideration of such factors as the weight, purity,
22 packaging, sale price, and street value of the controlled substance;

23 (e) The offender has not been found by the United States attorney
24 general to be subject to a deportation detainer or order and does not
25 become subject to a deportation order during the period of the
26 sentence;

27 (f) The end of the standard sentence range for the current
28 offense is greater than one year; and

29 (g) The offender has not received a drug offender sentencing
30 alternative more than once in the prior ten years before the current
31 offense.

32 (2) A motion for a special drug offender sentencing alternative
33 may be made by the court, the offender, or the state.

34 (3) If the sentencing court determines that the offender is
35 eligible for an alternative sentence under this section and that the
36 alternative sentence is appropriate, the court shall waive imposition
37 of a sentence within the standard sentence range and impose a
38 sentence consisting of either a prison-based alternative under RCW
39 9.94A.662 or a residential chemical dependency treatment-based
40 alternative under RCW 9.94A.664. The residential chemical dependency

1 treatment-based alternative is only available if the midpoint of the
2 standard range is twenty-four months or less.

3 (4) To assist the court in making its determination, the court
4 may order the department to complete either or both a risk assessment
5 report and a chemical dependency screening report as provided in RCW
6 9.94A.500.

7 (5)(a) If the court is considering imposing a sentence under the
8 residential chemical dependency treatment-based alternative, the
9 court may order an examination of the offender by the department. The
10 examination shall, at a minimum, address the following issues:

11 (i) Whether the offender suffers from drug addiction;

12 (ii) Whether the addiction is such that there is a probability
13 that criminal behavior will occur in the future;

14 (iii) Whether effective treatment for the offender's addiction is
15 available from a provider that has been licensed or certified by the
16 ~~((division of alcohol and substance abuse of the))~~ department of
17 social and health services; and

18 (iv) Whether the offender and the community will benefit from the
19 use of the alternative.

20 (b) The examination report must contain:

21 (i) A proposed monitoring plan, including any requirements
22 regarding living conditions, lifestyle requirements, and monitoring
23 by family members and others; and

24 (ii) Recommended crime-related prohibitions and affirmative
25 conditions.

26 (6) When a court imposes a sentence of community custody under
27 this section:

28 (a) The court may impose conditions as provided in RCW 9.94A.703
29 and may impose other affirmative conditions as the court considers
30 appropriate. In addition, an offender may be required to pay thirty
31 dollars per month while on community custody to offset the cost of
32 monitoring for alcohol or controlled substances.

33 (b) The department may impose conditions and sanctions as
34 authorized in RCW 9.94A.704 and 9.94A.737.

35 (7)(a) The court may bring any offender sentenced under this
36 section back into court at any time on its own initiative to evaluate
37 the offender's progress in treatment or to determine if any
38 violations of the conditions of the sentence have occurred.

1 (b) If the offender is brought back to court, the court may
2 modify the conditions of the community custody or impose sanctions
3 under (c) of this subsection.

4 (c) The court may order the offender to serve a term of total
5 confinement within the standard range of the offender's current
6 offense at any time during the period of community custody if the
7 offender violates the conditions or requirements of the sentence or
8 if the offender is failing to make satisfactory progress in
9 treatment.

10 (d) An offender ordered to serve a term of total confinement
11 under (c) of this subsection shall receive credit for any time
12 previously served under this section.

13 (8) In serving a term of community custody imposed upon failure
14 to complete, or administrative termination from, the special drug
15 offender sentencing alternative program, the offender shall receive
16 no credit for time served in community custody prior to termination
17 of the offender's participation in the program.

18 (9) An offender sentenced under this section shall be subject to
19 all rules relating to earned release time with respect to any period
20 served in total confinement.

21 (10) Costs of examinations and preparing treatment plans under a
22 special drug offender sentencing alternative may be paid, at the
23 option of the county, from funds provided to the county from the
24 criminal justice treatment account under RCW 70.96A.350 (as
25 recodified by this act).

26 **Sec. 525.** RCW 10.05.020 and 2010 c 269 s. 9 are each amended to
27 read as follows:

28 (1) Except as provided in subsection (2) of this section, the
29 petitioner shall allege under oath in the petition that the wrongful
30 conduct charged is the result of or caused by ~~((alcoholism, drug~~
31 ~~addiction,))~~ substance use disorders or mental problems for which the
32 person is in need of treatment and unless treated the probability of
33 future recurrence is great, along with a statement that the person
34 agrees to pay the cost of a diagnosis and treatment of the alleged
35 problem or problems if financially able to do so. The petition shall
36 also contain a case history and written assessment prepared by an
37 approved ~~((alcoholism))~~ substance use disorder treatment program as
38 designated in chapter ~~((70.96A))~~ 71.24 RCW if the petition alleges
39 ~~((alcoholism, an approved drug program as designated in chapter 71.24~~